IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.31354 of 2015
and M.P.No.1 and 2 of 2015

Hotel Mount Heera
Represented by its Partner
J.M.Amanullah
287, M.K.N.Road
St.Thomas Road
Chennai-600 016. .. Petitioner

Vs.

1.The State of Tamil Nadu
represented by the Secretary
Department of Prohibition and Excise
Secretariat, Fort St.George
Chennai-600 009.

2.The Collector
Kancheepuram District
Kancheepuram.

3.The Commissioner
Prohibition and Excise Department
Ezhilagam, Chepauk, Chennai-600 005.

4.The Assistant Commissioner (Excise)
Kancheepuram, Kancheepuram District.

5.The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
Gandhi Irwin Bridge
Egmore, Chennai-600 008. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 3rd respondent in R.C.No.P&E2(2)/5610/2015, dated 21.09.2015, rejecting the renewal of licence to run the Bar at Hotel Mount Heera situate at No.287, M.K.N.Road, St.Thomas Mount, Alandur, Chennai-600 016 and quash the same and consequently, direct the 3rd respondent to renew the licence of the petitioner in No.31/97-98 on merits and in accordance with the provisions of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981.

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For Petitioner : Ms.Vasudha Thiagarajan
For RR 1 to 4 : Mr.M.S.Ramesh
Addl. Govt. Pleader
For R5 : Mr.S.Muthuraj

ORDER

Writ Petition has been filed to call for the records pertaining to the proceedings of the 3rd respondent in R.C.No.P&E2(2)/5610/2015, dated 21.09.2015, rejecting the renewal of licence to run the Bar at Hotel Mount Heera situate at No.287, M.K.N.Road, St.Thomas Mount, Alandur, Chennai-600 016 and quash the same and consequently, direct the 3rd respondent to renew the licence of the petitioner in No.31/97-98 on merits and in accordance with the provisions of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981.

2.Heard the learned counsel appearing on behalf of the petitioner, learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 and the learned counsel for the fifth respondent.

3.As per the Tamil Nadu Liquor (Licence and Permit) Rules, 1981, renewal of FL3 licence for the year 2015-2016 came to be rejected only on the ground that there is no provision for condoning the delay in filing the renewal application.

4.According to the learned counsel for the petitioner, they had in fact explained the actual delay, which is not huge in number, but the authority simply pointing out that there is no specific rule or provision to consider the belated submission of application for renewal, rejected the same. There is no outer time limit specifically for condoning the delay. Further, Rule 21 of Tamil Nadu Liquor (Licence and Permit) Rules, 1981 also proceeds to the effect that the licensing authority may admit such renewal application, even if it is belated, provided there are good and sufficient reasons for the delay. When such being the position, according to the Rule 21, the simple rejection that there is no specific rule or provision to consider the belated submission of application, cannot be accepted.

5.For the reasons stated above, the impugned order in R.C.No.P&E2(2)/5610/2015, dated 21.09.2015, is set aside and the matter is remitted back to the authority for passing appropriate orders on consideration of explanation for the delay submitted by the petitioner after affording opportunity to him. Necessary orders be passed on or before 20.10.2015, failing which, supplies to the shop of the petitioner be resumed forthwith pending disposal of the application.

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6.With the above said direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar(CO)
dt:14/10/2015

True Copy

Sub-Assistant Registrar

To

1.The State of Tamil Nadu
represented by the Secretary
Department of Prohibition and Excise
Secretariat, Fort St.George
Chennai-600 009.

2.The Collector
Kancheepuram District
Kancheepuram.

3.The Commissioner
Prohibition and Excise Department
Ezhilagam, Chepauk, Chennai-600 005.

4.The Assistant Commissioner (Excise)
Kancheepuram, Kancheepuram District.

5.The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
Gandhi Irwin Bridge
Egmore, Chennai-600 008.

+2 cc to M/S.R.Thiagarajan Advocate sr.56049
+1 cc to Government Pleader, High court,
Madras-104 sr.55808

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